DOCKET SECTION

Before the
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

Postal Rate and Fee Changes, 1997) Docket No. R97-1

REPLY BRIEF OF HALLMARK CARDS, INCORPORATED

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I. INTRODUCTION

In this Reply Brief, Hallmark Cards, Incorporated (Hallmark) will discuss errors and misconceptions appearing in some of the Initial Briefs, concerning (i) Ramsey pricing, and (ii) the significance of the testimony presented by Greeting Card Association (GCA) witness Erickson. In doing so we will, as far as possible, refer to rather than repeat arguments made in our Initial Brief. We also add a few words concerning suggestions, again made on brief, respecting the implementation date of any new rates recommended in this proceeding.

II. RAMSEY PRICING ISSUES

A. LIP SERVICE TO THE STATUTORY PRICING FACTORS IS NOT AN ACCEPTABLE BASIS FOR RATE RECOMMENDATIONS

In general, the Initial Briefs of the Postal Service and other proponents of Ramsey pricing nod politely at the non-demand-related pricing criteria of the Postal Reorganization Act before explaining (at much greater length) the claimed merits of Ramsey pricing.[1] These explanations for the most part stay safely within the realm of theory. There is no discussion, and apparently no recognition, of those elements in the Ramsey theory that disqualify it for practical use in postal ratemaking, either directly or as a canon for judging rates arrived at in other ways. It is not necessary to controvert every dubious argument that has been made in favor of demand pricing; some

[1] This is true in varying degrees. The Postal Service does at least summarize at length — if sometimes selectively — the testimony of its pricing witness, Dr. O'Hara, who purported to apply all the § 3622(b) factors. Other parties are more cursory, or, like the OCA, fail to discuss the non-economic factors of § 3622(b) at all.

examples can adequately stand for them all. What is important is that the Commission, which must apply the statute as a whole and fashion a decision that reflects the entire record, cannot base its recommendations on textbook theory or neglect practical postal realities.

B. UNTENABLE ARGUMENTS FOR A DOMINANT ROLE FOR RAMSEY PRICING: THE MAIL ORDER ASSOCIATION OF AMERICA'S INITIAL BRIEF

The most uncompromising advocate of Ramsey pricing appears from the Initial Briefs to be the Mail Order Association of America (MOAA), which specifically attacks the Postal Service's proposed rates as insufficiently demand-driven. MOAA Initial Brief at 17, 19. MOAA's argument proceeds by insisting on the *general* proposition that Ramsey prices have certain useful theoretical properties and citing some court cases (none concerning postal rates) where the Ramsey theory is spoken of favorably. Relying on the Bernstein and Sherman testimony for the proposition that Ramsey prices would produce smaller "welfare loss" than the Postal Service proposals — and, thus, adopting the myopic view of "welfare" criticized in Hallmark's Initial Brief at 7-13 — MOAA concludes that the Commission

> . . . certainly should give greater attention to Ramsey pricing than has been the case in the past. . . . MOAA submits that it is the burden of those parties opposing the use of Ramsey pricing to demonstrate why the criteria of the Act require such a sharp departure from economically sound rates.

MOAA Initial Brief at 18.

This argument, of course, neglects even the limits that economic theory itself places on the use of Ramsey pricing — limits highly relevant to the Postal Service's institutional setting, and to the Commission's assignment of recommending rates that comply with the Act. It is well known that Ramsey prices are not necessarily subsidyfree.[2] But postal rates must be [§ 3622(b)(3)]. Cross-elasticities — particularly with products outside the Postal Service — present grave problems for Ramsey pricing; these are ignored both by the Postal Service (and the OCA) in their expert evidence and by MOAA's brief.[3] Ramsey pricing does not work in the presence of significant externalities, but the Act requires a number of important externalities, such as educational, cultural, scientific, and informational value, to be given weight in ratemaking.[4] The Act requires the Commission to consider the interests of recipients as well as senders of mail, but MOAA apparently equates "welfare" with "consumer welfare"[5] — i.e., solely with the effect of prices on purchasers of postage.

If MOAA can be said to respond at all to the Act's non-economic mandates, its response is only to dismiss them as "essentially political" (Initial Brief at 19)[6]. Its

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[2] PRC Op. R94-1, Appendix F at 17-18.

[3] The Newspaper Association of America (Initial Brief at 57-59) shows cogently and concisely the distortions this oversimplification introduces into the Ramsey analyses presented on this record.

[4] See discussion at pp. 10-11 and 17-19 of Hallmark's Initial Brief.

[5] See particularly MOAA Initial Brief at 18.

[6] MOAA dresses up this argument with a quotation from the Senate report on the Postal Reorganization Act of 1970, which it says explains "the very existence of the PRC." The context makes it clear that the Senate Committee was discussing not "the very existence" of the PRC, but the question whether preferred-rate categories, such as nonprofit third class, should continue to exist. 91st Cong., 2nd Sess., S. Rep. 91-912, at 10-11. The Senate bill would have abolished them, and the language MOAA quotes is part of its reasoning. The conference bill, of course, retained the preferred-rate categories. 91st Cong., 2nd Sess., H.R. Rep. 91-1363, at 85. In any event, the considerations MOAA labels "essentially political" are explicit requirements of the Act; even pertinent legislative history could not excuse the Commission from observing them.

argument is that Ramsey prices "will benefit society as a whole"[7] and that the Commission should not "look solely at the apparent 'winners' and 'losers' within the mail stream in setting prices" (Ibid.). Unfortunately for the communitarian purity of MOAA's position, the Act *requires* that attention be given to the effect of rate changes on different groups of mail users — or, if one prefers, to "winners and losers." Section 3622(b)(4) calls for attention to the effect of rate increases on different broad categories of mail users (including "the general public"). Section 3622(b)(1) requires the rate schedule to be "fair and equitable" — which clearly requires comparing its effects on different mailing groups. And § 3622(b)(8), mandating recognition of the (differing) ECSI value to the recipient of various types of mail matter, not only demands consideration of the effect on groups of *senders* but also, explicitly, of whether *recipients* will "win" or "lose" under a proposed rate change. None of these considerations, of course, necessarily would "lead the PRC to *ignore* economic efficiency" (MOAA Brief at 19; italics added).[8] Giving these considerations their legitimate weight can appear to require "ignoring" allocative efficiency only if such efficiency is considered the be-all and end-all of ratemaking.

MOAA, apparently as part of its effort to dissuade the Commission from considering fairness, asserts (Initial Brief at 20) that "[s]ingle piece First-Class rates are manifestly lower than can be justified on any economic basis." This proposition appears to be part of a warning that failing to track Ramsey prices will lead to loss of "price sensitive mail" (presumably Standard A) and higher rates for everyone. No

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[7] Which, given the restricted focus of Ramsey theory, must mean "purchasers of postage as an aggregate" — not a definition which encompasses recipients, as the Act requires.

[8] Hallmark explicitly recognized this. See Initial Brief at 19-21 and fn. 32.

record evidence and, indeed, no source of any kind is cited for it, although comparative volume growth rates might furnish a hint as to its validity.[9]

In short: there is nothing new here. Allocative efficiency is still being promoted as the dominant consideration in rate-setting. Statutorily required non-economic considerations are dismissed as "political" and as reflecting "parochial concerns" (MOAA Initial Brief at 20). Important externalities, likewise recognized in the Act, are not mentioned; Ramsey pricing is advocated despite its known inability to deal with them. The practice, habitual and perhaps necessary in abstract economic analysis, of considering *only* an aggregate of all consumers is presented as an ideal for practical ratemaking. The interests of mail recipients, which the statute requires be considered, are simply ignored.

C. THE POSTAL SERVICE'S ARGUMENTS FOR RAMSEY PRICING

Unlike MOAA, the Postal Service does proffer some relatively new arguments in favor of Ramsey pricing. Though less timeworn, they are no more plausible.

The Postal Service confuses Section 101(a)'s reference to "overall value of such service to the people" with "economic" efficiency. Section 101(a)'s last sentence reads

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[9] Recent press reports suggest that on this basis it might be difficult to prove that First-Class mail is underpriced:

> First-Class Mail growth continued its anemic pattern, showing only a .7% increase in volume through quarter two of fiscal 1998 compared to the same period last year, the most recent Revenue, Piece, Weight (RPW) report showed. Standard A Mail, Priority Mail and Parcel Post continued their gangbuster growth. For the first two quarters of the year, Parcel Post had a 17.7% increase over last year; Standard A grew 6.1%; and Priority Mail posted an increase of nearly 15% . . . .

Business Mailers Review, April 6, 1998, at 2.

The costs of establishing and maintaining the Postal Service shall not be apportioned to impair the overall value of such service to the people.

The Postal Service attempts to read this sentence[10] as a mandate that economic efficiency is to be the lodestar for ratemaking. Thus the Postal Service takes a much narrower view than does the Act of "overall value" to the people. And the Act, as reflected in the very legislative history quoted by the Postal Service Initial Brief at IV-4, looks to all users of the mail — not just at senders. The Service's view of economic efficiency does not encompass operational and managerial efficiency or economic optimization for both senders and receivers of mail, but rather addresses only rationing intended to maximize the sum of benefits to itself and to senders of mail[11] as a single agglomeration.

This is not the law. The Act establishes the Postal Service, with its monopoly over letter mail, as a service for the people [§ 101(a)], not as a business entity whose receipt of benefits is to be treated as on a par with the receipt of benefits by users of the mail. The Postal Service is to foster and not to ration usage of the mail. The Act, as evidenced, e.g., by § 3622(b)(8), recognizes a broader view of value than that captured in a concept of economic value.

The Postal Service's case attempts to identify Ramsey pricing with its preoccupying notion of economic efficiency. To bolster this effort to have the Commission embrace Ramsey pricing as the canon for postal ratemaking, the Service

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[10] Postal Service Initial Brief at IV-3 through IV-5.

[11] The Service's total preoccupation with itself and with senders, to the exclusion of recipients, is well illustrated in its argument for its "proposed new economic framework for pricing" where it argues for "sending the right price signals" to efficiently allocate resources. Postal Service Initial Brief at IV-19 through IV-21.

attempts to confound § 101(a)'s policy with economic efficiency.[12] Even if Ramsey pricing were a reliable and feasible way to gauge economic efficiency — which, as our Initial Brief explains, it is not, once practical realities like important externalities and data deficiencies are recognized — the proposed use of Ramsey pricing is dependent upon confusing the meaning of the term "pricing" in its narrow, economic-analysis sense with ratemaking as a whole. In ratemaking, pricing in the broader, more realistic sense accorded it when we speak of the "pricing factors" of § 3622(b) includes all the non-economic, unquantifiable and recipient-oriented considerations enumerated in that section. Such pricing is more than an exercise in bookkeeping and numbers manipulation — and calls for more than lip service to non-economic factors. Taxation of Postal Service institutional costs is a matter of public policy, not just of economic analysis.

The Postal Service misuses the statutory concept of "fairness." Ramsey pricing attempts to allocate the acquisition of goods or services through price rationing. The desire of the Postal Service to use the rationing-oriented economic analysis of Ramsey pricing — and particularly its version thereof — as the canon for postal ratemaking is reflected in its effort, Initial Brief, IV-8, to focus consideration of the statutory concept of "fairness" on a concept of economic efficiency. The view there espoused is that unfairness results when consumers of different products are faced with an unequal ability to make purchases at a price equal to or below the level at which they actually value those products. This view of fairness, with its exclusive focus on senders, would completely disregard recipients, and would neglect non-economic aspects and distributional economic aspects of the concept. For instance, it takes the relationship between "consumer" and "good" as an unanalyzable brute fact: individuals are classified as consumers of First-Class single piece or Standard A ECR mail, with no inquiry as to whether other individuals, wanting or needing to use (more of) a postal

[12] It attempts to do this in a Brief devoid of any positive disquisition on the use of ECSI value for setting rates for First Class mail.

product, are prevented from doing so by the price. *But any direction to the rate-setter* to consider such externalities as ECSI value [§ 3622(b)(8)] represents an attempt to accommodate customers that Ramsey pricing would dismiss as "not valuing" the product at its "efficient" price.[13] Moreover, the Service nowhere explains why "fairness" should be taken, in effect, to mean the same thing as value of service — as if the Act provided twice over for the same consideration, once under its own name [§ 3622(b)(2)] and once in disguise.

Significant common costs do not by themselves justify Ramsey prices as a canon for all ratemaking. The Postal Service asserts that Ramsey pricing should drive postal ratemaking because there are significant common costs in the postal system and hence such pricing would be economically efficient. Postal Service Initial Brief at IV-22. The Service's case for Ramsey pricing is thus premised on an economic efficiency theory which, as previously pointed out, ignores externalities and institutional mandates; and, accordingly, it ignores the institutional setting and the explicit requirements of the Act.

The Act, as the Commission and the courts have found[14], requires that all of the statutory criteria be applied in a balanced fashion in which no single criterion is given priority when the Commission determines how institutional costs are to be taxed to

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[13] It may indeed be the case that the Service's strained reading of "fairness" implies that the only "fairness" interest anyone could have is to live in a setting where optimal aggregate efficiency in the distribution of economic goods prevails. This eccentric view would substantially empty "fairness" of its usual connotation of *individual* rights and claims to consideration. There is no visible ground for arguing that in § 3622(b)(1) Congress used the words "fair and equitable" to express a view that "does not take seriously the distinction between persons" (J. Rawls, *A Theory of Justice* (1971) at 27).

[14] See discussion in Hallmark's Initial Brief at 14, 18-20, 35-36.

mailer groups.[15] The Act permits no primacy for the purely economic considerations, and no disregard of the interests of recipients. In like manner, concerns regarding historical and income effects[16] as well as non-quantifiable effects on culture are not to be relegated to a distant secondary status. The Postal Service was created as an institution to foster the peoples' correspondence, not to ration it under the banner of economic efficiency. That it has "significant common costs" does not change this fact.

The legal and policy bankruptcy of the Postal Service's attempt to elevate Ramsey pricing into the canon for postal ratemaking is seen in the failure of the Service to address ECSI considerations — particularly those considerations acting on cultural values to recipients of the mail. The Postal Service appears to admit that Dr. Erickson has demonstrated the high cultural value of greeting cards. Postal Service Initial Brief at V-39. Nevertheless, its Initial Brief does not address the effects of its rate proposals or of its proposed use of Ramsey pricing on recipients of First-Class mail or on the related fulfillment of the statutory ECSI ratemaking criterion.[17] This omission is very consistent with — indeed, necessary to — the attempted elevation of Ramsey pricing into a ratemaking canon, because Ramsey pricing's exclusive focus on demand

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[15] In its zeal to promote Ramsey pricing, the Postal Service Initial Brief states that "[b]y definition, Ramsey prices minimize the additional burden (relative to marginal cost pricing) on consumers." IV-22. The fact is that these prices seek to maximize benefits to the aggregate of the USPS and shippers, not to shippers alone. (The OCA's *Initial Brief, at 168, makes this particularly plain.) Moreover, the effects on any* one shipper group are ignored. Also, the fact that Ramsey pricing, as a Pareto-optimization scheme, disregards historical and income effects and distributional economics and accepts the current economy as perfect is not mentioned. As explained in our initial brief, this view of economic efficiency does not withstand scrutiny.

[16] See 39 U.S.C. § 3622(b)(4).

[17] In summarizing its pricing witness's presentation on First-Class rates, the Service does not mention ECSI or § 3622(b)(8) — even though that witness (Dr. O'Hara) testified that he had not sought to alter the Commission's previous findings on the ECSI value of First-Class mail. Tr. 2/214, discussed in Hallmark's Initial Brief at 39.

rationing of senders implies and invites disregard for substantial consideration of non-economic and recipient interests.

The omission of any consideration of externalities in the Postal Service's brief for Ramsey pricing is telling. To acknowledge external effects on society, such as those associated with cultural values (for senders and recipients) and other recipient interests, is to show that Ramsey pricing does not maximize social welfare.[18] Ramsey pricing would impose the highest costs on captive mail and the least on mail subject to competition.[19]

D. SOME OTHER MISCONCEPTIONS

A few additional points (not necessarily all that could be made) may be mentioned at this juncture.

Unlike MOAA, the Direct Marketing Association (DMA) does not insist specifically on Ramsey pricing. In one respect, however, its Initial Brief parallels the approach of the Ramseyites: it avoids a comprehensive application of all the § 3622(b) pricing criteria to the problem it addresses (the relation between First-Class and

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[18] For discussion of why "social welfare" cannot be equated merely with the minimization of loss to purchasers from consumption forgone because prices exceed marginal cost, see Hallmark Initial Brief at 7-12.

[19] Ramsey pricing theory also presumes an open, competitive market for all goods being differentially taxed. In advocating Ramsey pricing, the Postal Service fails to consider that — particularly by reason of the Private Express Statutes — no such market exists for postal services. Its pricing witness acknowledged (Tr. 2/182) that the demand effects of the letter monopoly would have to be corrected for by applying § 3622(b)(5) — that is, that Ramsey pricing cannot accommodate them. Instituting Ramsey pricing therefore would use the monopoly granted by Congress not to advance public service goals, but rather to ration demand to guarantee breakeven revenue and preferentially foster volumes of mail in classes the Service deems to be subject to competition.

Standard A institutional-cost contributions). DMA argues (Initial Brief at 39) that "[a]ll the pertinent pricing factors support a contribution factor (or markup) for Standard (A) that is significantly below that for First Class[.]" The key word is "pertinent." In developing its argument, DMA discusses subsections (b)(2) (intrinsic value of service and relative demand), (b)(4) (user impact — which DMA finds irrelevant *to First Class* because of the modest increases proposed), and (b)(5) (alternatives).[20] Nothing is said about (b)(8) (ECSI), or (b)(1) (fairness). There can be no objection to a party's arguing — explicitly, and with reasons advanced — that a particular § 3622(b) criterion is inapplicable to a particular mail category. Simply labeling the criteria that favor one's position as "pertinent" and ignoring the rest, however, is not enough.

The OCA Initial Brief, like others but more candidly, treats dollars flowing to the Postal Service as an equivalent offset to value lost by consumers (OCA Initial Brief at 168) — notwithstanding the public service mission the Act creates for the Postal Service. But the OCA also emphasizes witness Sherman's elaborate comparisons of "welfare loss" as among different pricing scenarios. Id. at 167-169, citing Dr. Sherman's Tables 2-4. The point is to show that "total welfare loss . . . increases every

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[20] First Class is said to have no (b)(5) claim because of a "widely-acknowledged increase in the availability of alternative means of communicating written material, including E-mail via the Internet, electronic bill payment and facsimile transmission." DMA Initial Brief at 40. Apart from the fact that subsection (b)(5) speaks of "the available alternative means of sending letters and other mail matter [not E-mail or other electronic substitutes] at reasonable costs," DMA's citation to Dr. O'Hara's testimony fails to reflect that he also said:

> For many mailers, the available alternatives (criterion 5) to First-Class Mail letters are quite limited. In addition to the restrictions imposed by the Private Express Statutes, considerations of cost and accessibility mean that many mailers have few practical alternatives to the use of First-Class Mail letters for transmitting correspondence, bills, and bill payments.

USPS-T30 at 23. DMA's other claimed record support — from ABA et al. witness Clifton — explicitly deals only with *workshared* First-Class Mail.

time more constraints force prices farther from their pure Ramsey levels[.]" Id. at 169. The Postal Service proposals, compared with constrained Ramsey prices, are said to produce a loss of about $1 billion.

We are not disputing the OCA's (or Dr. Sherman's) arithmetic. However, these comparisons could usefully have been placed in the same perspective the Commission brought to bear in Docket R94-1:

> . . . Witness Lenard calculates the efficiency losses associated with alternative rate proposals by comparing consumer surplus under the different rate proposals with that under Ramsey prices. As witness Lenard's calculations show, under any proposed pricing strategy efficiency losses are extremely small. Table F-2 shows that the losses to the U.S. economy are less than 1 percent of the Postal Service's total revenue, and an extremely small percentage of the approximately $27 trillion gross domestic product.
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> . . . The Commission acknowledges that a loss is a loss, no matter how small. The Commission, however, finds that economy-wide efficiency losses of such a small magnitude may be warranted if they are necessary to satisfy other competing pricing criteria. . . .

PRC Op. R94-1, Appendix F at 19-20.

In summary, the proponents of Ramsey pricing rely on its attractive theoretical properties, as advantageously displayed in a textbook setting. The Commission has a more practical job to do. The Act sets forth a number of "competing pricing criteria" which it must implement, and the Postal Service operates in a real, and well-known, institutional setting of imperfect or nonexistent competition, gaps and ambiguities in fundamental data, and an overriding mission of serving the entire American public — including those who receive as well as those who send mail of all types. In that situation, Ramsey pricing is neither feasible nor lawful as a canon for setting postal rates.

III. THE POSTAL SERVICE HAS FAILED TO UNDERSTAND DR. ERICKSON'S TESTIMONY

Seeking to trivialize evidence that one is not prepared to rebut is a time-honored litigation tactic. In judging the meaning and value for ratemaking of the testimony of Greeting Card Association witness Ken C. Erickson, therefore, the Commission should rely on Dr. Erickson himself and on GCA's Initial Brief, rather than on the Postal Service's treatment (Initial Brief at V-38 to V-41).

The Postal Service describes Dr. Erickson's testimony as amplifying a "common sense understanding." Initial Brief at V-38. This is useful in itself, but it is not all that Dr. Erickson did.[21] The Service fails to grasp that such amplification is useful to show the extent of the cultural importance of greeting cards in the context of a rate proceeding containing much economic testimony — but conducted under a statute that forbids exclusive reliance on economic ideas. It also fails to grasp the clear fact that Dr. Erickson did more than this: he showed how the receipt, as well as the sending, of greeting cards has substantial cultural significance and how this significance occurs across the American social spectrum while having particular importance for segments of our people — such as the elderly.

The Postal Service, in its effort to minimize ECSI-related considerations, does not mention cultural value to recipients — values clearly established through Dr. Erickson's survey, which concentrated on how and why *recipients* value cards that

[21] The Service acknowledges (Initial Brief at V-38 to V-39) that a cultural anthropological investigation, such as that performed and reported on by Dr. Erickson, has not heretofore been presented to the Commission.

come in the mail. That survey thus reflects the fact that the relationships that comprise culture-laden communications necessarily involve both senders and recipients — and can extend to third parties (e.g., those subsequently viewing greeting cards received by family members or friends).

Although Dr. Erickson explained that greeting cards serve a particular and important function in our nation's culture, and that even the closest substitute, personal letters, could not convey the same iconic messages, the Postal Service complains that his testimony should be disregarded since all mail may have some cultural value and — apparently — because he did not study other parts of the mailstream. Initial Brief at V-39. What the Service fails to recognize is that Dr. Erickson showed the particular and great cultural significance of greeting cards sent through the mails — a cultural value that other mails do not serve. Since recognition of ECSI values is not a zero sum game[22], neither claims to ECSI value, supported by testimony, nor recognition of that value, preclude acknowledging ECSI value established through evidence for other mails.[23] If significant ECSI value can be shown for other groupings of mail, the appropriate result is to expand the role of ECSI in postal ratemaking — not to imply that clearly relevant cultural studies presented to the Commission are not important.

Although the Service lacks global studies of cultural value, it recognizes such value in the case of publications. Yet it does not want to treat seriously the significant value in our American culture of greeting cards. Its Initial Brief, and particularly Part IV's lengthy argument regarding pricing, does not show a recognition of such values.

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[22] Testimony establishing the significant extent of the cultural value of greeting cards or single-piece First-Class mail does not take any cultural value away from other mails — if such value is shown on the record.

[23] Dr. Erickson can not be faulted for not presenting testimony on other mail groupings — any more than were witnesses in past cases whose testimony helped establish the ECSI value of second-class periodicals or of books and recordings.

The Commission should use the testimony presented by Dr. Erickson to give greater recognition to ECSI value in ratemaking for First Class mail, and to strengthen and make more concrete its rejection of the Postal Service's effort to elevate Ramsey pricing as the lodestar of postal ratemaking.

IV. THE QUESTION OF TIMING

Hallmark shares the doubts expressed by many parties that, given what appears to be a resoundingly successful financial performance in FY 1997, the Postal Service is in immediate need of the requested increment in revenue. We hope that in its Recommended Decision the Commission will do all it can to make it clear that there is a substantial disparity between what the Postal Service projected as its revenue need and what appears to be the fact. However, we have noted proposals (as in the Joint Brief of Advertising Mail Marketing Association, et al., on revenue requirement issues) that the Commission should urge the Board of Governors to delay implementation "until at least the end of this fiscal year"[24]

Hallmark urges the Commission — once it has laid out as clearly as possible the true relationship between requested revenue and actual financial performance — to *refrain from speculating about the proper timing of implementation.* We do so not out of undue deference to the Board of Governors (though the Board's claim to determine timing for itself is both historically founded and clearly asserted in its March 3, 1998 letter to the Commission), but because the record on which the Commission must act is devoid of data regarding the varying effects of any particular implementation date on different groups of mailers. While implementation at or just after the end of FY 1998 might suit some commercial mailers, it would have a deleterious effect on the mailing of

[24] AMMA et al. Joint Brief at 1. See also pages 2 and 9.

greeting cards. Conversely, an implementation date in or after January 1999 would avoid harm to the significant cultural values inherent in the holiday exchange of greeting cards. The Commission has, on this point, scarcely any hard information and certainly none that has stood the test of cross-examination.[25] We suggest that, while Commission findings on revenue need in general are indispensable, the better course would be to leave the choice of implementation date where the statute locates it — with the Board of Governors, who will doubtless be receiving representations from a variety of parties on the effects of various possible dates.

Respectfully submitted,

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[25] We recognize, of course, that not everything said in a Commission decision is a finding of adjudicative fact as to which 39 U.S.C. § 3624(a) requires a hearing on the record. But the Commission's unique role in the postal system is as an expert body assessing expert evidence.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding, in accordance with § 12 of the Rules of Practice.

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